

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE VICE MAYOR AS ACTING MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 29, OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, ENTITLED "LAND DEVELOPMENT REGULATIONS", BY AMENDING ARTICLE III, DIVISION 2, ENTITLED "GENERAL DEVELOPMENT REVIEW PROCEDURES", SPECIFICALLY AT SECTION 3-210, ENTITLED "CERTIFICATE OF RE-OCCUPANCY" REQUIRING A CERTIFICATE OF RE-OCCUPANCY EACH TIME THERE IS A TRANSFER OF TITLE OF REAL PROPERTY IN ORDER TO DETERMINE COMPLIANCE WITH THE ZONING DISTRICT REQUIREMENTS SET FORTH IN THE LAND DEVELOPMENT REGULATIONS, AND ALLOWING FOR THE ISSUANCE OF CONDITIONAL CERTIFICATES OF RE-OCCUPANCY WHERE THERE ARE NO PREVIOUSLY EXISTING AND CITED UNCORRECTED LIFE SAFETY CODE VIOLATIONS ON THE PROPERTY; PROVIDING FOR REPEAL, CONFLICTS, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, the City of North Miami ("City") currently requires the issuance of re-occupancy certificates upon the sale of residential properties; and

WHEREAS, the current re-occupancy certificate code section allows for inspections to determine compliance with the City's building and life safety codes; and

WHEREAS, the Vice-Mayor as Acting Mayor and City Council wish to revise the current re-occupancy certificate standards to only allow for inspections regarding dwelling use and zoning district requirements; to ensure the property is being used solely for residential purposes; and confirm there are no previously existing and cited uncorrected life safety code violations on the property; and

WHEREAS, it is further recommended that the City allow for *conditional* certificates of re-occupancy where there are no previously existing and cited uncorrected life safety code violations on the dwelling, so that potential buyers of real estate in the City will have the ability to purchase blighted properties and renovate them in accordance with the building standards established in the City's Code as well as the Florida Building Code.

NOW THEREFORE, BE IT ORDAINED BY THE VICE-MAYOR AS ACTING MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, THAT:

**Section 1.** The Vice-Mayor as Acting Mayor and City Council of the City of North Miami, Florida, hereby amend Chapter 29, of the City of North Miami Code of Ordinances, entitled “Land Development Regulations”, by amending Article 3, Division 2, entitled “General Development Review Procedures,” specifically at Section 3-210, entitled “Certificate of Re-Occupancy” as follows:

## CHAPTER 29. LAND DEVELOPMENT REGULATIONS

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### ARTICLE 3. DEVELOPMENT REVIEW

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#### DIVISION 2. GENERAL DEVELOPMENT REVIEW PROCEDURES

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#### **Section 3-210. Certificate of Re-occupancy.**

##### A. Purpose.

The purpose of this Section is to ensure that prior to residential property being conveyed to new ownership, the City is able to confirm that the property meets the current City zoning requirements; that the premises are being used solely for residential purposes; and that there are no previously existing and cited uncorrected life safety code violations on the property.

##### B. Single-family, duplex, triplex and condominium units.

~~A certificate of re-occupancy is required each time there is any transfer of title of a residential building, whether single family, duplex, triplex, condominium unit, or apartment building. Both the seller and the buyer are responsible for obtaining a certificate of re-occupancy. A certificate of re-occupancy is required to ensure that structures originally built for residential use are still utilized for that purpose and are in compliance with the requirements of these land development regulations and the city's building and life safety codes. The city manager shall have the authority to enter into settlement agreements and issue conditional certificates of reoccupancy, which shall be executed by the buyer. Conditional certificates, where life safety violations exist, shall be subject to terms set by the building official.~~

~~*Penalties.* Any property for which an approved re-occupancy certificate is not obtained prior to the transfer of title shall be subject to a fine equivalent to the expedited application fee, payable at the time the late application is filed.~~



It shall be unlawful for any person, entity or corporation to buy, sell, convey or transfer a single-family, duplex, triplex or condominium dwelling unit, unless a certificate of re-occupancy has been issued by the Building Official or his or her designee. The certificate of re-occupancy, if issued, shall state that the Building Official or his or her designee has inspected the dwelling and has determined that the dwelling meets the provisions of the Land Development Regulations of the City pertaining solely to the requirement that each individual unit is used, designed or intended to be used as a single-family, duplex, triplex or condominium dwelling unit and that the dwelling unit has not been altered and conforms to its zoning designation. A certificate of re-occupancy shall not be required for the original transfer or conveyance of a newly constructed single family, duplex, triplex or condominium dwelling unit.

C. Apartment complex.

It shall be unlawful for any person, entity or corporation to buy, sell, convey or transfer an apartment or building complex consisting of four (4) or more units unless a certificate of re-occupancy has been issued by the Building Official or his or her designee. The certificate of re-occupancy, if issued, shall state that the Building Official or his or her designee has inspected the dwelling and has determined that the dwelling meets the provisions of the Land Development Regulations of the City pertaining solely to the requirement that each individual unit is used, designed or intended to be used as an apartment or building unit and that the unit has not been altered and conforms to its zoning designation. A certificate of re-occupancy shall not be required for the original transfer or conveyance of a newly constructed apartment or building complex.

D. Certificate of Re-occupancy Application

1. Applications for a certificate of re-occupancy shall be made by the seller, owner or the designated agent, upon a form provided by the City along with the payment of an inspection fee.
2. Upon receipt of the application and fee, a city inspector shall inspect the dwelling within ten (10) days and, if such dwelling is found to be in conformity with the provisions of paragraphs (A) or (B) above, a certificate of re-occupancy shall be issued. If the dwelling is not in conformity with such provisions, the Building Official or his or her designee shall indicate by itemized list, corrective action and the certificate of re-occupancy shall be withheld unless and until such provisions are complied with, to the reasonable satisfaction of the Building Official.
3. The fee for re-inspection, to be paid by the applicant, shall be promulgated by the City. An expedited inspection or re-inspection fee shall be paid by the applicant, if the applicant requests for an inspection or re-inspection to be completed within five (5) business days of receipt of the application.

E. Restriction on inspection.

Inspections under this Section shall be limited to ensuring compliance with zoning requirements and dwelling use. Information gained or conditions observed, including life safety violations,

other than as to the dwelling use or zoning designations addressed in paragraphs (A) or (B) of this Section, during the course of any inspection under this Section, shall not be utilized as the basis for denying a certificate of re-occupancy. This shall not preclude the bringing of code enforcement actions against the property for violations observed during the inspection.

F. Conditional certificate of re-occupancy

A certificate of re-occupancy may not be issued should there be previously existing and cited uncorrected life safety code violations on the dwelling. In the event that there are previously existing and cited uncorrected life safety code violations, a *conditional* certificate of re-occupancy may be issued subject to terms set by the building official. The city manager shall have authority to enter into settlement agreements and issue the conditional certificates of re-occupancy, which shall be executed by the buyer and seller. The fee for a conditional certificate of re-occupancy shall be promulgated by the City.

G. Penalties.

Any property for which an approved re-occupancy or conditional re-occupancy certificate is not obtained prior to the transfer of title shall be subject to a fine equivalent to the expedited application fee, payable at the time the late application is filed plus any fines assessed by the code enforcement special magistrate under code enforcement violation proceedings.

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**Section 2. Repeal.** All ordinances or parts of ordinances in conflict herewith are repealed.

**Section 3. Conflicts.** In the event that the provisions of this Ordinance are in conflict with any other ordinance, rule or regulation, the provisions of this Ordinance shall prevail.

**Section 4. Severability.** The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance, but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 5. Codification.** It is the intention of the City Council of the City of North Miami and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of North Miami, Florida. The sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and the word "ordinance" may be changed to "section," "article" or any other appropriate word.



**Section 6.      Effective Date.** This Ordinance shall become effective immediately upon adoption on second reading.

**PASSED AND ADOPTED** by a 4-0 vote of the Vice Mayor as Acting Mayor and City Council of the City of North Miami, Florida, on first reading this 23rd day of September, 2014.

**PASSED AND ADOPTED** by a \_\_\_\_\_ vote of the Vice Mayor as Acting Mayor and City Council of the City of North Miami, Florida, on second reading this \_\_\_\_\_ day of October, 2014.

\_\_\_\_\_  
PHILIPPE BIEN-AIME  
VICE MAYOR ACTING AS MAYOR

ATTEST:

\_\_\_\_\_  
MICHAEL A. ETIENNE, ESQ.  
CITY CLERK

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

\_\_\_\_\_  
REGINE M. MONESTIME  
CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

Moved by: \_\_\_\_\_

Sponsored by: \_\_\_\_\_

**Vote:**

Vice Mayor acting as Mayor Philippe Bien-Aime  
Councilperson Scott Galvin  
Councilperson Carol Keys, Esq.  
Councilperson Marie Erlande Steril

_____	(Yes)	_____	(No)
_____	(Yes)	_____	(No)
_____	(Yes)	_____	(No)
_____	(Yes)	_____	(No)

Additions shown by underlining. Deletions shown by ~~overstriking~~.